

## REMARKS

Claims 1-12 were previously cancelled and claim 13 is cancelled by the present amendment.

Claims 14, 16, 18, 20, 24, 26, 28, 30 and 32 are allowed.

The examiner has rejected claims 13, 15, 17, 19, 21-23, 25, 27, 29 and 31 under 35 U.S.C. § 103. In rejecting the claims the examiner notes that the earlier rejection of claims 1-12 under 35 U.S.C. § 103 is applicable to the presently rejected claims because the disclosure of Green renders these claims obvious.

Applicant submits that this rejection is no longer appropriate since independent claim 13 has been cancelled and all of the remaining rejected claims have been amended so that they now depend directly or indirectly from allowed claim 30.

Although claim 30 has been allowed, applicant has nonetheless included a further limitation in this claim to further distinguish the invention over the art of record. In this regard it is to be noted that allowed claim 30 now also recites that the carbohydrate mixture promotes the growth of lactic acid bacteria in the large intestine of a human. Claims 31 and 32 (as they were originally presented) also recite the feature of promoting the growth of lactic acid bacteria. Support for the aforementioned limitation in allowed claim 30 is found in the specification on page 3, lines 15-18; page 6, lines 4-6 and more particularly in the paragraph bridging pages 7-8 and in original claim 12.

Upon further review of the claims, it has come to applicant's attention that a further limitation should have been included in allowed claim 14. In particular, when drafting claim 14, the limitations of original claim 1 regarding the number of saccharide units of components A and B should have been incorporated in claim 14 since the number of saccharide units in components A and B represents a core feature of the invention. In this regard it is to be noted that component A of original claim 1 is a monosaccharide or an oligosaccharide. The oligosaccharide of original claim 1 can have up to 6 monosaccharide units in view of the language "disaccharide to hexasaccharide". Component B of original claim 1 is a polysaccharide containing at least 7 monosaccharide units in view of the language "from heptasaccharide onwards". Accordingly, the oligosaccharide of component A in claim 14 has been amended to include the limitation "of up to 6 monosaccharide units" and the polysaccharide of component B has been amended to include the limitation "at least 7 monosaccharide" units.

The present amendment also corrects a typographical error in claim 18.

Lastly, applicant wishes to thank the examiner for the courtesy extended to the below signed attorney during the interview on April 8, 2003. The following remarks constitute a separate record of the content of the interview as well as additional comments in support of the patentability of the claimed invention.

The interview focused on the patentability of rejected claims 13, 15, 17, 19, 21-23, 25, 27, 29 and 31. During the interview the below signed attorney emphasized the importance of selectivity with respect to the number of monosaccharide units contained in the oligosaccharides of component A and the polysaccharides of component B. The examiner urged that the cited reference discloses oligosaccharides and polysaccharides which overlap the selected

oligosaccharides and polysaccharides of the present invention. Accordingly the examiner was not willing to allow the rejected claims on the basis of this argument.

The examiner acknowledged during the interview that the prior art does not expressly teach the limitation which requires that at least 80 weight % of the carbohydrates/saccharides of the carbohydrate components A and B have a prebiotic effect. Nonetheless the examiner urged during the interview that since all the other limitations of the claims are met, the composition of Green et al. would inherently have the above-noted percentage of carbohydrates which have a prebiotic effect. Also discussed was the possibility of rebutting this rejection by factually establishing that less than 80% of the carbohydrate/saccharides used in the compositions disclosed by Green et al. have the required prebiotic effect.

The examiner agreed during the interview that the obviousness rejection may be overcome by establishing the criticality of one or more of the limitations recited in claim 13.

Notwithstanding the above-discussed possibilities for rebutting the rejection, applicant has elected to expedite the prosecution of this application by cancelling rejected independent claim 13 and redrafting the remaining rejected dependent claims so that they now depend from allowed claim 30.

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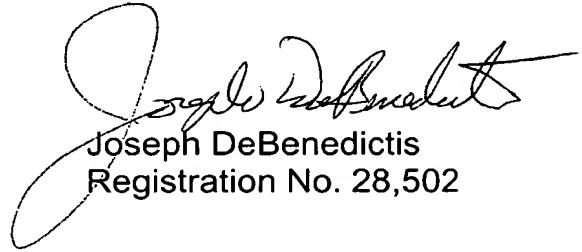
In view of the above arguments and further amendment to the claims, applicant respectfully requests reconsideration and allowance of all the pending claims.

Respectfully submitted,

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